



Signed and Filed: August 8, 2023

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:) Bankruptcy Case
PG&E CORPORATION,) No. 19-30088-DM
) Chapter 11
- and -) Jointly Administered
PACIFIC GAS AND ELECTRIC COMPANY,)
Reorganized Debtors.) Date: August 23, 2023
) Time: 10:00 AM
☐ Affects PG&E Corporation) Via Video/Teleconference
☐ Affects Pacific Gas and) www.canb.uscourts.gov/calendars
Electric Company)
☒ Affects both Debtors)
* All papers shall be filed in)
the Lead Case, No. 19-30088 (DM).)

**ORDER REGARDING CONTINUED HEARING ON MOTION FOR
THE APPLICATION OF BANKRUPTCY RULE 7023**

On August 2, 2023, the court issued a Docket Text Order continuing the hearing on the *Securities Plaintiffs' Motion and Memorandum of Points and Authorities in Support of Motion for the Application of Bankruptcy Rule 7023 and the Certification of*

1 a *Class of Securities Claimants* (Dkt. 13865) (the "Motion") from
2 August 8, 2023, to August 23, 2023, at 10:00 AM.

3 Reorganized Debtors (and the RKS Claimants if they choose
4 to join), as opponents of the Motion, and Securities Lead
5 Plaintiff ("PERA") (and any other party that has previously
6 filed a joinder who choose to join in support of the Motion)
7 shall file simultaneous briefs on August 18, 2023. The briefs
8 should not exceed 20 pages.

9 The supplemental briefs should not repeat the arguments
10 made in the Motion, the Reorganized Debtors' objection (Dkt.
11 13922) and the RKS Claimants' objection (Dkt. 13918). In
12 particular, the court does not need any further discussion of *In*
13 *re Musicland Holding Corp.*, 362 B.R. 644 (Bankr. S.D.N.Y. 2007).

14 Reorganized Debtors should not spend time or argument
15 dealing with the cost to them to have to deal with the Motion if
16 the court grants it.

17 Similarly, the parties should not spend time either
18 criticizing PERA's counsel, the fact that counsel may recover
19 attorney fees if the Motion is granted and ultimately
20 successful, nor whether PERA's counsel has a conflict of
21 interest because some members of the class PERA represents in
22 the district court action did not file claims in this Chapter 11
23 case. The same with any further discussion of law of the case.
24 As to any aspect of those issue, counsel can address them during
25 oral argument at the hearing.

26 What the court is looking for from the parties' supplemental
27 briefs is the most practical and legally permissible way of
28 bringing an end to the seemingly never-ending efforts by alleged

1 securities fraud victims, and the Reorganized Debtors' defenses
2 to those claims and achieving some reasonable closure and final
3 resolution in this court.

4 When the Reorganized Debtors file their supplemental brief,
5 they should also file a separate, current report setting forth
6 the total number of securities fraud claims that were filed, the
7 total number that have been resolved by either withdrawal,
8 objection, consensual resolution or otherwise, the total number
9 (but not dollar amount) of claims remaining, and the total
10 number that are presently the subject of scheduled mediation
11 under the ADR procedures.

12 The following are specific questions to be addressed in the
13 briefing:

- 14 • Whether PERA's proposed Rule 7023 procedure have an
15 adverse effect on the pending ADR procedures and on the
16 Reorganized Debtors apart from their cost to defend all
17 of the matters (See PERA Reply, (Dkt 13940 at p.10) if
18 the Motion is granted?
- 19 • If the court provides an opt-out option under Rule 7023,
20 do specific claimants have the right to opt back in if
21 the ADR procedures are unsuccessful as to them?
- 22 • What is the harm to permitting an opt-in option instead
23 of what PERA proposes? The authorities cited suggest
24 only the opt-out option appears in FRCP 23, but nothing
25 appears to prohibit it.
- 26 • Is there any bankruptcy case other than this one where a
27 class action has been considered at the same time
28 something akin to the ADR procedures here (which clearly

1 has its own "opt-out" option available to claimants by
2 who reject the best settlement offer of the Reorganized
3 Debtors?

- 4 • If the court grants the Motion, what happens after class
5 certification, notice and the opt-out deadline? More
6 specifically, assuming there is no consensual resolution
7 between PERA and the Reorganized Debtors via efforts to
8 settle any class action, on what timeline would the court
9 expect to set pre-trial and trial scheduling matters?
- 10 • If the ADR procedures are unsuccessful, what would be the
11 estimated pre-trial and trial scheduling for adjudication
12 of the remaining claims under the traditional claims
13 objection process?
- 14 • Assume parallel tracks for ADR and Rule 7023 procedures,
15 neither of which are entirely successful, when will it be
16 appropriate to consolidate matters to avoid duplication
17 of matters such as expert testimony? For example, will
18 the question of market price (Reply, at p. 10 and
19 footnote 14) or other similar matters need to be dealt
20 with even without the Motion being granted?
- 21 • Other concerns Reorganized Debtors have that arose in the
22 PERA Reply that have not been dealt with in the
23 Opposition.

24 ****END OF ORDER****

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